

## **Appendix F**

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DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO CA 95814-2922

REPLY TO  
ATTENTION OF

November 7, 2011

Regulatory Division SPK-2010-00222-SG

Ken Borngrebe  
Manager of Siting and Permitting  
First Solar, Inc.  
18300 Von Karman Avenue, Suite 930  
Irvine, CA 92612

Dear Mr. Borngrebe:

This concerns your proposed Silver State South project in or near tributaries of Roach Lake. The project is located on or near Roach Lake, Section 23, Township 27 S, Range 59 E, Mount Diablo Meridian, Latitude 35.5996°, Longitude -115.3358°, Primm, Clark County, Nevada.

Based on the information you have provided, we have determined that the proposed work does not involve work in navigable waters of the United States. Therefore, a Department of the Army Permit is not required for this work. Measures should be taken to prevent construction materials and/or activities from entering any waters of the United States. Appropriate soil erosion and sediment controls should be implemented onsite to achieve this end.


**Based on the information you have provided, it appears that all activities relating to the construction of the project will occur within the Roach Lake Drainage Basin, which has been determined to be non-jurisdictional waters and includes drainages into the dry lake.**

Our disclaimer of jurisdiction is only for this activity as it pertains to Section 404 of the Federal Clean Water Act and does not refer to, nor affect jurisdiction over any waters present on site. Other Federal, State, and local laws may apply to your activities. Therefore, in addition to contacting other Federal and local agencies, you should also contact state regulatory authorities to determine whether your activities may require other authorizations or permits.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey at <http://per2.nwp.usace.army.mil/survey.html> and select Sacramento District – St. George Office on page 2 of the survey form.

Please refer to identification number SPK-2010-00222-SG in any correspondence concerning this project. If you have any questions, please contact Patricia McQueary at 196 E. Tabernacle Street, Room 30, St. George, Utah 84770, email *Patricia.L.McQueary@usace.army.mil*, or telephone 435-986-3979. For more information regarding our program, please visit our website at *www.spk.usace.army.mil/regulatory.html*.

Sincerely,

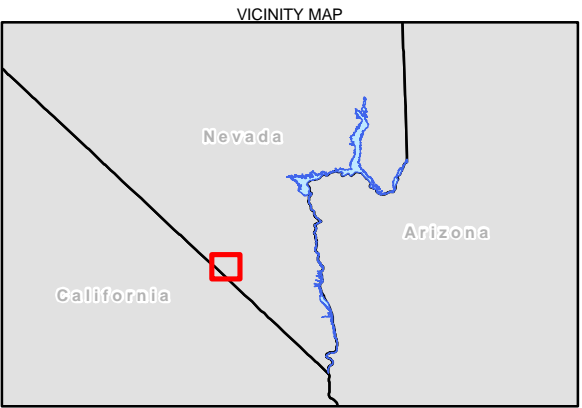
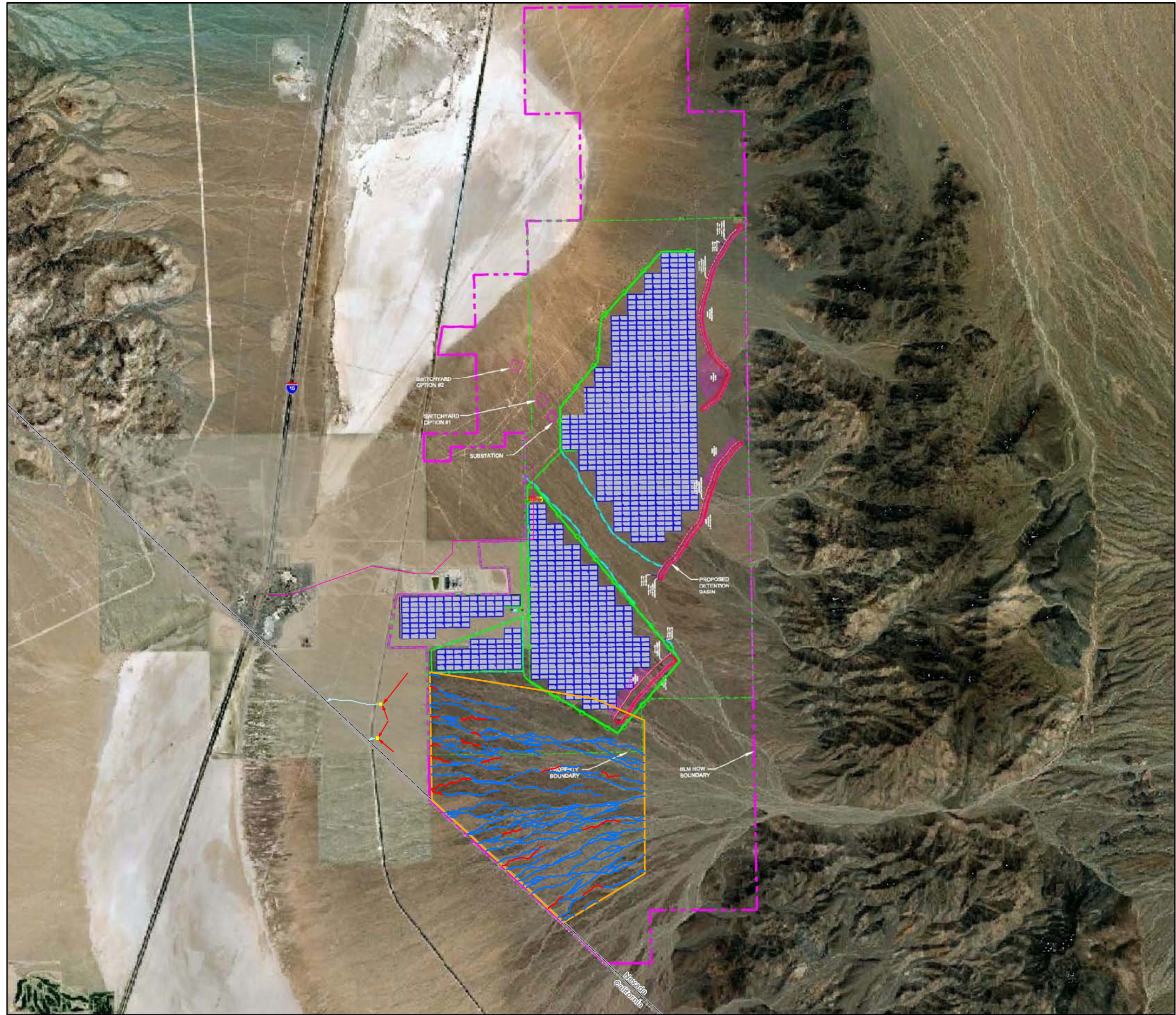


Patricia L. McQueary  
Chief, St. George Regulatory Office  
Sacramento District

Enclosure(s)  
Map of Project Site

Cc:  
Christine Roberts, CH2M Hill, 2485 Natomas Park Drive, Suite 600, Sacramento, CA 95833-2937  
Gary Helseth, BLM-Southern Nevada Renewable Energy Coordination Office Manager, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130  
Todd Elwood, CH2M Hill Americas Region, 33 New Montgomery Street, Suite 2000, San Francisco, Ca

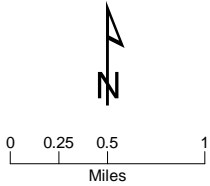




**LEGEND**

- Railroad Culvert
- Project Access Road
- - - Property Boundary
- Stormwater Diversion Berm
- Silver State Solar South Array Area
- Wetland Survey Area
- Interstate Water Connections
- Waters of the U. S.**
- Class 3 Drainage (11 feet to 20 feet)
- Class 4 Drainage (3 feet to 10 feet)
- - - Right-of-Way Application Boundary
- State Boundary
- ← Railroad berms divert drainage into culverts

Note:  
1. Aerial photograph basemap dated 2006.



**Location of Waters of the U.S. at the Silverstate Solar South Project Area**  
NextLight Silver State Photovoltaic Sites  
Clark County, NV





**DEPARTMENT OF THE ARMY**  
**U.S. ARMY ENGINEER DISTRICT, SACRAMENTO**  
**CORPS OF ENGINEERS**  
**1325 J STREET**  
**SACRAMENTO CA 95814-2922**

REPLY TO  
ATTENTION OF

May 20, 2013

Regulatory Division SPK-2010-00222-SG

Mr. Ken Borngrebe  
Silver State Solar Power South, LLC  
525 Market Street, 15th Floor  
San Francisco, CA 94105

Dear Mr. Borngrebe:

We are responding to your September 24, 2012 request for an approved jurisdictional determination for a portion of the Silver State Solar South Power Project (Project). The Project is located near Ivanpah and Roach Dry Lakes, Section 14, Township 27 S, Range 59 E, Mount Diablo Meridian, Latitude 35.5996346°, Longitude -115.335889°, Primm, Clark County, Nevada (Enclosure 1).

The boundary covered by this jurisdictional determination is shown on Enclosure 2. The requested area was covered, in part, by a jurisdictional determination issued by the Corps on September 29, 2010, addressing drainages to Roach Dry Lake from the Project. This jurisdictional determination also covers an area in the northern portion of the Project area that was delineated in 2012 but for which a determination was not previously made (see Enclosure 2). Because this determination addresses the entire area covered by that September 29, 2010 jurisdictional determination, as well as the additional area noted above, this determination supersedes that dated September 29, 2010. The areas south of the watershed divide remains subject to a separate jurisdictional determination issued by the Corps on June 8, 2010.

In support of this determination, we concur with the estimate of waters of the United States, as depicted on Enclosure 2. Within the area of this determination, a total of 439,507 linear feet of ephemeral drainages are intrastate isolated waters with no apparent interstate or foreign commerce connection (shown as "Delineated Intrastate Waters" on Enclosure 2). These Delineated Intrastate Waters are located entirely to the north of the watershed divide between Roach Dry Lake and Ivanpah Dry Lake. These drainages flow towards Roach Dry Lake, a non-navigable, intrastate water. As such, these waters are not regulated by the Corps. A subset of these non-jurisdictional waters (shown on Enclosure 2 as waters delineated in 2012) were also previously assessed by the Ivanpah to El Dorado Transmission Line Project (SPK-2010-00576).

Also within the area of the requested jurisdictional determination, 524 linear feet of interstate ephemeral drainages are jurisdictional waters (shown as "Class 4 Drainage" on Enclosure 2). None of the current Project alternatives shown on Enclosure 1 will result in disturbance of these jurisdictional waters.

This disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other Federal, State, and local laws may apply to your activities.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331.

A Notification of Appeal Process (NAP) and Request for Appeal (RFA) form is enclosed (Enclosure 3). If you request to appeal this determination you must submit a completed RFA form to the South Pacific Division Office at the following address: Administrative Appeal Review Officer, Army Corps of Engineers, South Pacific Division, CESP-DPO, 1455 Market Street, 2052B, San Francisco, California 94103-1399, Telephone: 415-503-6574, FAX: 415-503-6646.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 60 days from the date of this letter. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

This determination has been conducted to identify the limits of Corps of Engineers' Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are U.S. Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2010-00222-SG in any correspondence concerning this project. If you have any questions, please contact me at 196 E Tabernacle Street Room 30, St. George, Utah 84770, email [Patricia.L.McQueary@usace.army.mil](mailto:Patricia.L.McQueary@usace.army.mil), or telephone 435-986-3979. For more information regarding our program, please visit our website at [www.spk.usace.army.mil/Missions/Regulatory.aspx](http://www.spk.usace.army.mil/Missions/Regulatory.aspx).

Sincerely,





Patricia L. McQueary  
Senior Regulatory Project Manager  
St. George Regulatory Office  
Sacramento District

Enclosures

Copy Furnished without enclosures

Christine Roberts, CH2M Hill, 2485 Natomas Park Drive, Suite 600, Sacramento, CA  
95833-2937 (Electronic)

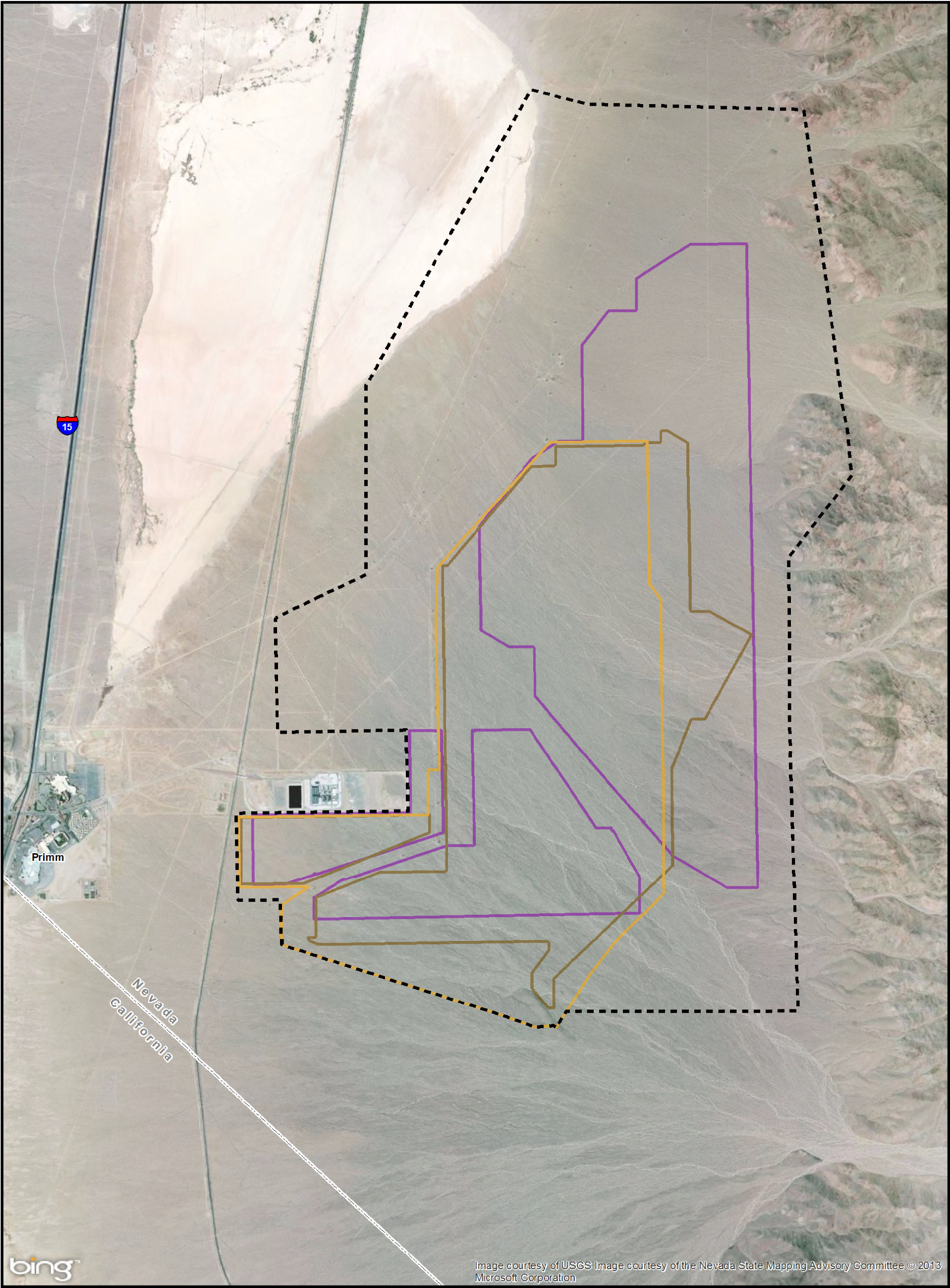
Gary Helseth, BLM-Southern Nevada Renewable Energy Coordination Office Manager,  
4701 North Torrey Pines Drive, Las Vegas, Nevada 89130

Ms. Jean Stone, Nevada Division of Environmental Protection, 901 S. Stewart Street  
Suite 4001, Carson City, Nevada 89701-5249

Mr. Jason Ferrin, Nevada Division of Environmental Protection, 901 S. Stewart Street  
Suite 4001, Carson City, Nevada 89701-5249

Mr. Todd Elwood, CH2MHill, Americas Region, 33 New Montgomery Street, Suite  
2000, San Francisco, California 94105 (Electronic)

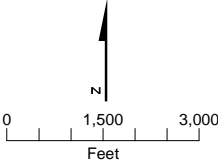




**LEGEND**

- Boundary of Request for Jurisdictional Determination
- SEIS Project Footprint, Alternative B
- SEIS Project Footprint, Alternative D
- SEIS Project Footprint, Alternative E (Phase II)

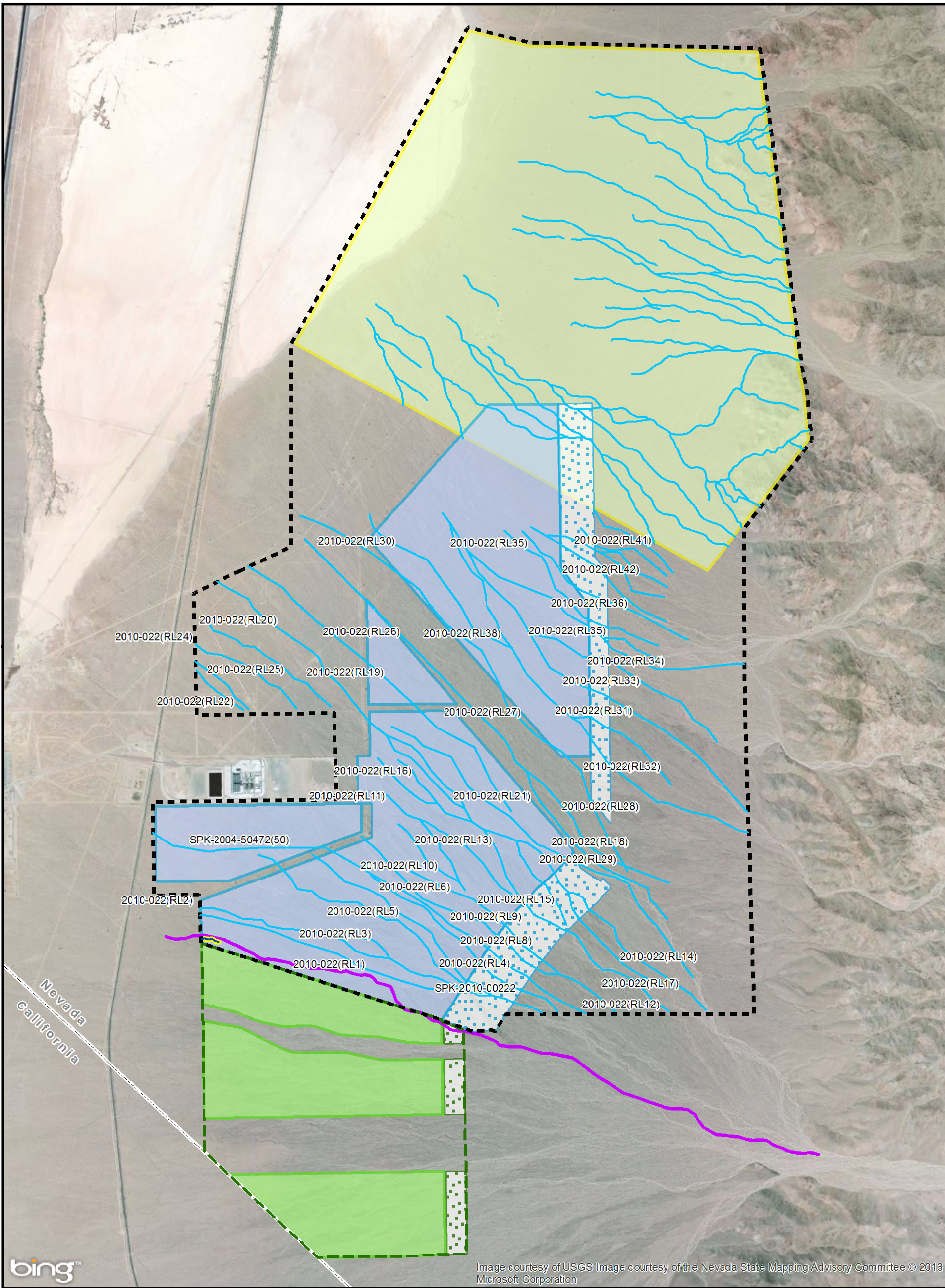
This map was compiled from various scale source data and maps and is intended for use as only an approximate representation of actual locations.



**ENCLOSURE 1**  
**REQUEST FOR JURISDICTIONAL DETERMINATION**  
SILVER STATE SOLAR SOUTH  
CLARK COUNTY, NEVADA

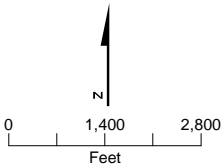
**CH2MHILL**





**LEGEND**

- Boundary of Request for Jurisdictional Determination
- 2012 Area Delineated for Waters of the U.S., likely Non-Jurisdictional using USACE criteria
- Solar Field and Ancillary Facilities (Phase II, Alternative E)
- Solar Field and Ancillary Facilities (Phase III, Alternative E)
- Drainage Control Detention Basin (Phase II, Alternative E)
- Drainage Control Detention Basin (Phase III, Alternative E)
- Avoidance Area for Phase II, Alternative E
- Division between Ivanpah Dry Lake Drainages and Roach Lake Drainages
- Class 4 Drainage (3 feet to 10 feet)
- Delineated Intrastate Waters



**ENCLOSURE 2**  
**IVANPAH LAKE / ROACH LAKE**  
**WATERSHEDS BOUNDARY**  
SILVER STATE SOLAR SOUTH  
CLARK COUNTY, NEVADA

**CH2MHILL**



## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Mr. Ken Borngrebe, Silver State Solar Power South, LLC		File No.: SPK-2010-00222-SG	Date: May 20, 2013
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/cecw/pages/reg\\_materials.aspx](http://www.usace.army.mil/cecw/pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.



**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Patricia L. McQueary  
Senior Regulatory Project Manager  
St. George Regulatory Office  
Sacramento District  
U.S. Army Corps of Engineers  
196 East Tabernacle Street, Room 30, St. George, Utah 84770  
Phone: 435-986-3979, FAX 435-986-3961  
Email: Patricia.L.McQueary@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh  
Administrative Appeal Review Officer  
U.S. Army Corps of Engineers  
South Pacific Division  
1455 Market Street, 2052B  
San Francisco, California 94103-1399  
Phone: 415-503-6574, FAX 415-503-6646  
Email: Thomas.J.Cavanaugh@usace.army.mil

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number:



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**U.S. ARMY ENGINEER DISTRICT, SACRAMENTO**  
**CORPS OF ENGINEERS**  
**1325 J STREET**  
**SACRAMENTO CA 95814-2922**

July 30, 2013

Regulatory Division (SPK-2010-00222-SG)

Mr. Ken Borngrebe  
Silver State Solar Power South, LLC  
525 Market Street, 15th Floor  
San Francisco, California 94105

Dear Mr. Borngrebe:

This letter concerns your proposed Silver State Solar South 250 MW project located within the Roach Lake Playa Watershed. The Project is located near Ivanpah and Roach Dry Lakes, within the general vicinity of Section 14, Township 27 S, Range 59 E, Mount Diablo Meridian, Latitude 35.599634°, Longitude -115.33588°, Primm, Clark County, Nevada as shown on the attached map (Enclosure 1).

Based on the information you provided and a site visit conducted on June 18, 2013, we determined that the proposed work will not result in the discharge of dredged or fill material within waters of the United States. Therefore, a Department of the Army Permit is not required for this work. Measures should be taken to prevent construction materials and/or activities from entering any waters of the United States. Appropriate soil erosion and sediment controls should be implemented onsite to achieve this end.

Our disclaimer of jurisdiction is only for this activity as it pertains to Section 404 of the Federal Clean Water Act and does not refer to, nor affect jurisdiction over any waters present on site. Other Federal, State, and local laws may apply to your activities. Therefore, in addition to contacting other Federal and local agencies, you should also contact State regulatory authorities to determine whether your activities may require other authorizations or permits.

We appreciate feedback. At your earliest convenience, please tell us how we are doing by completing the *Customer Survey* from the link on our District program website.

Please refer to identification number SPK-2010-00222-SG in any correspondence concerning this project. If you have any questions, please contact me at the St. George Regulatory Office, 196 East Tabernacle Street Room 30, St. George, Utah 84770, email

*Patricia.L.McQueary@usace.army.mil*, or telephone 435-986-3979. For more information regarding our program, please visit our District website at *www.spk.usace.army.mil/Missions/Regulatory.aspx*.

Sincerely,

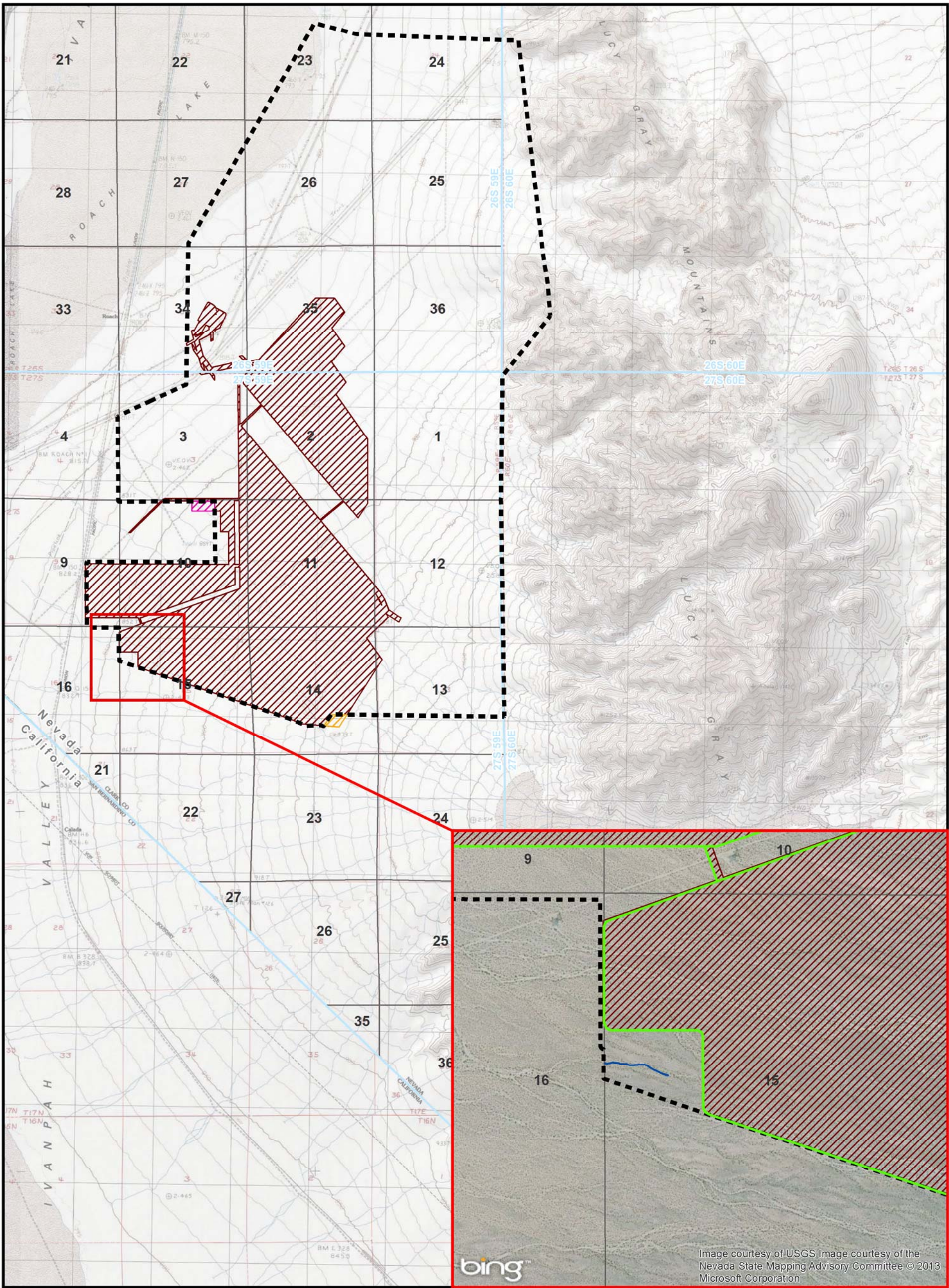
Patricia L. McQueary  
Senior Regulatory Project Manager  
St. George Regulatory Office  
Sacramento District

Enclosures

cc:

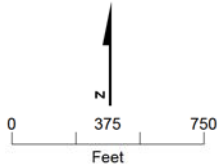
Mr. Todd Ellwood, CH2M HILL, 2485 Natomas Park Drive, Sacramento, California  
95833-2937





LEGEND

- Class 4 Drainage (3 feet to 10 feet)
- Perimeter Fence
- Boundary for Jurisdictional Determination (May 20, 2013 JD;SPK-2010-00222-SG)
- Disturbance Area, Project Footprint (Identified as non-jurisdictional in May 20, 2013 JD; SPK-2010-00222-SG)
- Disturbance Area, Project Footprint (Identified as non-jurisdictional in September 29, 2010 Roach Lake Drainage JD; SPK-2010-00222-SG)
- Disturbance Area, Project Footprint (Area is within Roach Lake Drainage Basin, does not require Department of the Army Permit; No Permit Letter dated November 7, 2011 SPK-2010-00222-SG)
- Sections
- Townships



**FIGURE 1**  
**PROJECT AREA OF DISTURBANCE**  
**AND BOUNDARY OF JURISDICTIONAL**  
**DETERMINATION**  
SILVER STATE SOLAR SOUTH  
CLARK COUNTY, NEVADA